

Colorado Basin Round Table Demand Management Workgroup Discussion Points

WORK IN PROGRESS

Introduction: The Colorado Basin Roundtable formed a demand management workgroup at the end of January, 2019, with the goal to be proactive when appropriate to inform the statewide conversations about demand management going on all around us and to be reactive when we learn of something that should be addressed or considered by our basin. Many of us will not be part of the small inclusive CWCB workgroups being used to study the feasibility of a demand management program, but this will give us a larger voice in the conversation. Our other primary objective is to be involved in education and outreach within in our basin.

To that end, in both the large workgroup and in smaller groups, we have been discussing the issues, questions, concerns and principles we feel should be part of the demand management conversation. We have tried to summarize this process in this document. Not everyone within the workgroup may have the same reaction to a particular discussion point below, but as a whole the group recognizes these points as ones we do not want to lose sight of in the process. Likewise, although some issues are presented as questions below, some of us may feel there are already answers to these questions, but others may have less confidence that there is a consensus in the answers.

It is important to our workgroup that these discussion points be viewed as a work in progress intended to foster further discussion and to encourage additional input from others. We expect this document to evolve as we move through the Risk Study III results and meet with the other West Slope Roundtables on June 20. We welcome your thoughts.

Discussion Points:

1. A demand management program has to support existing and future productive agriculture and not unfairly impact rural communities, which means, among other things, not removing water permanently from the land. Avoiding permanent “buy and dry” is of paramount importance in the Colorado River basin.
2. A demand management program must be “equitable” between the west slope and the east slope and between the west slope basins and within a basin - between municipal uses and agricultural uses and industrial uses (to be sure burden not on agriculture alone) and across elevations and geographies (to be sure burden not on lower elevations alone). We need to avoid concentrated impacts. The Colorado River Basin Roundtable should try to reach a consensus as to what it believes “equitable” to mean. Will this definition change as future water projects come on line in different basins?
3. Market-based mechanisms under a demand management program must consider all costs associated with a reduction in water use and not just strive to minimize compensation. If demand management payments are designed to be a profit source, there

will be more incentive for land to stay in agricultural production. All farmers and ranchers in all basins should be able to participate in voluntary demand management. A “one price fits all” compensation plan will not work, but the question of compensation may be resolved under free market principles.

4. There can be ancillary benefits to a demand management program that we should not lose sight of and which may play a role in implementation and funding decisions. For example, demand management payments could be a bridge for producers to transition to organic production, or to make other market transitions. Also, the reduced diversions associated with demand management may result in environmental benefits both upstream and downstream of the participating water right.

5. We cannot lose sight of the secondary economic and community impacts demand management may have at local/regional/statewide levels. Water rights and the water associated with the rights are valuable to communities even if the water rights are private property rights. Can rural communities be protected from concentrated areas of full fallow or speculation in water without trampling on property rights? Do local governments with land use authority have a role to play in demand management to ensure the community benefits associated with water rights remain within the community?

6. We feel a bit behind the curve on addressing the technical issues associated with a demand management program. Work needs to be done to address measurement, calculation methodologies and verification and the collection of data to support the same based upon spatial variability and elevation differences. More research into deficit irrigation and potential “alternative” crops may lead to solutions for some of the issues associated with demand management. Like the question concerning compensation, can a “one size fits all” standardized method to quantify conserved consumptive use work in a variety of environments and farming/ranching programs? Will the lack of a standardized method be an impediment to implementation of a demand management program in the near term?

7. The Colorado River basin does not want a successful temporary and voluntary demand management program to pave the way for continued future development that does not adequately address the water scarcity issues facing the basin. A successful demand management program cannot increase the need for more demand management. To put it another way, demand management implementation should not be used as a “reservoir” for future consumptive use development.

8. We need to ensure that voluntary participation in a demand management program does not lead to mandatory participation in the future or result in claims of waste and efforts to reduce a participator’s water right. Furthermore, the historical consumptive use of a participating water right must not be negatively impacted. State law C.R.S. § 37-92-305 (3)(c) currently will only protect the historical consumptive use of a water right that is enrolled in certain water conservation or approved land fallowing programs a maximum of

five years in any consecutive ten-year period. Is that adequate for purposes of a temporary demand management program?

9. What does voluntary mean? Agriculture often involves both the owner of the water right and land, the landlord, and a tenant, the producer. In order to protect productive agriculture and rural communities, there needs to be consideration of this interplay and there will need to be a perceived benefit for both the landowner and the producer to participate in a demand management program. Also, on the west slope, much agricultural ground is irrigated using federal Bureau of Reclamation projects. Could the Bureau of Reclamation force any of the United States water rights to be used for demand management without the landlord and/or producer's consent?

10. Requiring a participant to subject a water right to the current water court change process is likely to discourage a significant number of the willing participants in any demand management program. What are viable alternatives that still protect other water users?

11. How can local municipalities support projects within their areas? Local alternative transfer methods projects could be such an opportunity if coordinated with a demand management program. As municipalities work to increase the resiliency of their water systems in the face of climate change, how will this affect the statewide demand management efforts?

12. Are there sources of demand management water not being adequately considered such as non-tributary groundwater or reclaimed produced groundwater?